

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TRANSCRIPT OF PROCEEDINGS - Status
BEFORE THE HONORABLE SAMUEL DER-YEGHIAYAN

APPEARANCES:

For the Plaintiff: SHOOK HARDY & BACON LLP
BY: MR. TODD C. JACOBS
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For the Defendants: GREENBERG TRAURIG LLP
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1 (The following proceedings were had in open court:)

2 COURTROOM DEPUTY: 15 C 7385, CarProof versus
3 HyperQuest.

4 MR. FERAK: Good morning, your Honor. Paul Ferak on
5 behalf of the defendants.

6 THE COURT: Good morning.

7 MR. JACOBS: Good morning, your Honor. Todd Jacobs
8 on behalf of the plaintiff CarProof and I'm here with my
9 colleague Justin Donoho.

10 THE COURT: Can you identify yourself individually?

11 MR. DONOHO: Yes. Justin Donoho on behalf of
12 CarProof. Thank you.

16 We have a partial motion to dismiss that is being
17 briefed, right?

18 MR. FERAK: Yeah. I think our reply is due tomorrow
19 or -- I'm sorry, not tomorrow.

20 THE COURT: 11-23.

21 MR. FERAK: Yes, right. Correct.

22 THE COURT: And now there is proposed dates for
23 discovery and dispositive motions. How much -- I think you
24 have differing opinions on this.

25 MR. JACOBS: Your Honor, yes. For the plaintiff, I

1 think a high-level summary, the plaintiff thinks the case
2 ought to go a little more quickly than the defendant does
3 and, you know, the plaintiff's view of -- you know, we
4 basically have a schedule set that would get this case to
5 trial, you know, about 13 months after the filing of the
6 complaint. And, you know, in our view, your Honor, it's a
7 pretty straightforward case, pretty confined, it's a breach
8 of contract case where the main issues appear to be whether
9 there was authority to enter into an agreement and whether
10 there was an enforceable agreement and then there's a
11 tortious interference claim against two related parties, the
12 parent that entered into the contract and an affiliated
13 company and so we think there's -- you know, there's going to
14 be pretty confined document discovery.

15 We've looked at the witnesses, you know. It's early
16 on but I'm thinking -- you know, we're going to have on the
17 order of maybe ten depositions in the case. It doesn't seem
18 like it's going to be an expert-intensive case. In a breach
19 of contract case, liability experts don't seem likely. There
20 may be damages experts. But, you know, as far as, you know,
21 civil litigation goes, this seems like a pretty
22 straightforward case that we ought to be able to get to trial
23 in a year or less and I think we've got experienced lawyers
24 on -- you know, on both sides of the case that can work
25 together to make that happen.

1 THE COURT: Okay. I'll give you a chance, defense,
2 but what the plaintiff just articulated has been my view in
3 these types of cases. I move my cases along based on the
4 facts I set discovery deadlines, based on the number of
5 people that have to be deposed potentially and the type of
6 case which is, you know, contracts usually, documents and
7 it's not --

8 MR. FERAK: You know, the big concern I have here is
9 I'm dealing with the complaint that they filed and the
10 complaint that they filed, although it's articulated now as a
11 straightforward breach of contract, here's the big concern
12 that I have with this particular case. You know, the case
13 was filed and then they waited -- you know, there's a 60-day
14 extension and I know there were some discussions going on
15 between the parties so the case didn't get started right when
16 it was filed but we're dealing with a Canadian company that
17 does business in Canada. And as you go through the
18 complaint, we don't just have the two parties listed who are
19 the parties to the alleged draft agreement or contract that
20 was signed but we have the additional entities and then we've
21 got pages and pages poured into this complaint about all
22 these activities that are taking place exclusively in Canada
23 and my biggest concern with the complaint that they've
24 alleged and even the block, quote, of discovery that they
25 included within the joint report is the activities that are

1 going to have to take place up in Canada in connection with
2 this case both with respect to liability issues as well as
3 damages issues and I don't have the same abilities here that
4 I do to get information up in Canada.

5 THE COURT: Counsel just complimented you about your
6 abilities.

7 MR. FERAK: I have great abilities but I have some
8 difficulties that I don't normally have once we get north of
9 the border and that's -- that's my biggest concern because
10 what I don't want to have to do is to keep coming back asking
11 for extensions and that's the big issue because right now,
12 you know, the date that's contemplated is -- you know,
13 certainly we both agree to initial disclosure, you know, a
14 date coming up in the next few weeks in December but --

15 THE COURT: I don't set the initial disclosure
16 dates. I leave that up to the parties but plaintiff is the
17 one that filed this complaint. The burden is on the
18 plaintiff to make its case. Plaintiff believes that based on
19 the facts, based on the personnel involved, people involved,
20 plaintiff can prosecute this case within the time there.
21 We're not talking about three months or four months
22 discovery. We're talking about six months almost discovery
23 so I think that with ten depositions could be easily
24 coordinated. How many of those are in Canada, counsel?

25 MR. JACOBS: You know what, your Honor, I don't know

1 the precise number. I think they -- the defendants have
2 identified three specific people. They may be in Canada. I
3 don't really think because we're a party to the case -- I
4 mean, I don't think the Canadian aspect of this is going to
5 slow things down in any respect. It's certainly possible
6 there could be third parties that we don't control. But as
7 to my client, the fact that we're in Canada, it should not
8 slow things down. We're in Ontario. It's actually not even
9 very far from here.

10 THE COURT: Ontario is a suburb of Detroit or
11 something?

12 MR. JACOBS: Right.

13 THE COURT: Okay. I'm going to go along with the
14 plaintiff's dates right now. If after discovery is done --
15 which is right now April 1st fact discovery -- and then
16 there's an expert discovery of April 15 and then rebuttal
17 report May 16th and then expert discovery completion June 1,
18 that's another two months added there. You know, if at that
19 time there is possibility of damages experts, you know, after
20 dispositive motions are filed, then I'll entertain such
21 requests so I'm going to go along with -- I mean, it might
22 well be that there might be a dispositive motion granted that
23 there's no liability and that would be done with; we won't
24 need damages expert at that time, so.

25 I'll keep the dispositive motion date of June 15.

1 I'll add about three weeks to answer dispositive motions
2 by -- I'll make it July 8 instead of July 6th so July 8th.
3 And then replies July 29th. I'll set a status hearing after
4 June 1st. I'll do it the next day, June 2nd, then I'll know
5 where the parties are if you intend to file dispositive
6 motions or if you are close to settling it, we'll address at
7 that time.

8 If you don't intend to file dispositive motions, on
9 June 2nd when you come and tell me you don't intend to file
10 dispositive motions, either side, because it's fruitless to
11 file dispositive motions, then come prepared with your trial
12 schedule so we could set a trial at that time on June 2nd or
13 pick a trial date, so. This will put you on the track to
14 move along with the case.

15 I never say I will not grant continuances for valid
16 reasons or extend the dates if necessary. We'll address that
17 if the time comes. Okay?

18 MR. FERAK: Very good.

19 MR. JACOBS: Thank you very much, your Honor.

20 MR. FERAK: Thank you.

21 (Which concluded the proceedings in the above-entitled
22 matter.)

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1 C E R T I F I C A T E

2 I hereby certify that the foregoing is a transcript
3 of proceedings before the Honorable Samuel Der-Yeghiayan on
4 November 18, 2015.

5
6 */s/Laura LaCien*

7 _____
8 Laura LaCien
9 Official Court Reporter

10 February 26, 2016
11 Date

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